

SIKKIM



GOVERNMENT

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GOVERNMENT OF SIKKIM LAW & PARLIAMENTARY AFFAIRS DEPARTMENT GANGTOK

No. 11(656)L&PAD/2021/34

Dated: 13.06.2024

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 22nd day of March, 2024 is hereby published for general information:-

THE SIKKIM ENLISTMENT OF CONSTRUCTIONAL MACHINERIES AND EQUIPMENTS ACT, 2024 (ACT No. 04 OF 2024)

AN ACT

to develop a system to enlist the owners of Constructional machineries and equipments who intend to conduct business within the State of Sikkim and for matters connected therewith or incidental thereto.

WHEREAS, the State Government has deemed it expedient to streamline the deployment and operation of constructional machineries and equipments within the State of Sikkim with a view to eliminate the unsanctioned operational practices and in consideration of safeguarding the environment, interest of local public and signifying the concept of ease of doing business.

BE it enacted by the Legislature of Sikkim in the Seventy-fifth year of the Republic of India as follows :-

**Short title,
extent and
commencement**

1. (1) This Act may be called the Sikkim Enlistment of Constructional Machineries and Equipments Act, 2024.
- (2) It shall extend to the whole of Sikkim.
- (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires;-

- (a) **“Constructional machineries and equipment”** means those mechanized machines which are designed to perform series of construction related operations which are classified under the following basic activities i.e., excavating, roading, drilling, pile driving, reinforcement, boring, tunnelling, finishing machinery, concrete utilities machineries, preparatory work machineries, cranes, hoisting, conveying machines, loader, unloader and any other type of machinery or equipment which shall be designed and developed for constructional utility purpose;
- (b) **“Contractor”** means an individual, registered firm, enterprise or company executing or intending to execute the work under a contract or hold the ownership of any type of constructional machinery and equipment;
- (c) **“COI or SSC holder”** means an individual or proprietor of any registered firms, enterprise or company who possesses a Certificate of Identification or Sikkim Subject Certificate issued by the competent authority and also holds the ownership of any type of constructional machineries and equipments;
- (d) **“Commercial work”** means construction work or that portion of a multipurpose work, including industrial, pharmaceutical, business, hotel and resort, or other commercial use designed and intended to generate revenue duly contracted or owned by any registered firm, enterprise and company;
- (e) **“Company”** means a company registered under the Companies Act, 2013 or any law enacted by the State Government;
- (f) **“Enlistment”** means enlistment of contractor in accordance with this Act;
- (g) **“Enterprise”** means a registered establishment belonging to an individual or other body of individuals who render activities related to building and constructional services whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor;
- (h) **“Government”** means the Government of Sikkim;
- (i) **“Government developmental project work”** means work which is undertaken by or under the direction or control of any department of the Government;
- (j) **“Implementing Authority”** means the authority under section 5;
- (k) **“Machine Identification Number (MIN)”** means a unique identification number assigned by the Implementing Authority under section 8;

- (l) **"Non-COI or SSC holder"** means an individual or proprietor of any registered firm, enterprise or company who does not possess a Certificate of Identification or Sikkim Subject Certificate issued by the competent authority, but has the ownership of any type of construction machinery and equipment;
- (m) **"Prescribed"** means prescribed by rules made under this Act;
- (n) **"Rules"** means the rules made under this Act;
- (o) **"Registered firm"** means firm registered under the provision of Indian Partnership Act, 1932 or any other prevailing laws of the State Government;
- (p) **"Supervision charge"** means a charge collected in respect of construction machinery and equipment which are intended to be used to conduct business within the State of Sikkim;
- (q) **"Sikkim Nationalized Transport"** means the Sikkim Nationalized Transport (SNT) Division, Transport Department, Government of Sikkim;
- (r) **"Service receiver"** means any individual, registered firm, company, Government Department or Government Undertaking, who receive services under any contract related to Commercial Works, Government Department Project works and Infrastructural development works;
- (s) **"Service"** means such service as may be notified by the Implementing Authority under section 3;
- (t) **"Stipulated time limit"** means the time limit as notified under clause (2) of section 3;
- (u) **"Work"** means work assigned to a contractor after execution of a contract or agreement.

Implementing Authority

- 3. (1) Sikkim Nationalized Transport (SNT) Division, Transport Department, Government of Sikkim shall be the Implementing Authority which shall control the deployment and operation of all the constructional machineries and equipments intended to be utilized for all the commercial work, government developmental project works and infrastructure developmental works within the State of Sikkim.
- (2) The Implementing Authority shall, by notification, within a period of three months from the date of commencement of this Act, specify the list of services rendered by it, the stipulated time limit for such services and the list of designated officers for the specified services.

Class of enlistment

- 4. (1) There shall be two classes of enlistment which are as follows namely:-
 - (a) Class 'A' shall be for residents of Sikkim who possess a valid Certificate of Identification (COI) or Sikkim Subject Certificate (SSC).

- (b) Class 'B' shall be for non-residents of Sikkim who do not possess a valid Certificate of Identification (COI) or Sikkim Subject Certificate (SSC).

**Criteria for
enlistment**

5. (1) All the existing and newly procured fleet of Constructional Machineries and equipments owned or contracted by any contractor of Class of 'A' or 'B' enlistment specified under clause (a) and (b) of section 4, which are intended to render any type of constructional related activities or services for any commercial works, Government Development Project and Infrastructure Development Works shall be eligible to be enlisted by the Implementing Authority under the name of "Sikkim Nationalized Transport undertaking constructional machinery fleet".
- (2) Any contractor applying for Class A enlistment shall submit the following documents as under namely:-
- (a) attested copy of COI or SSC;
 - (b) copy of Voter card and PAN card;
 - (c) copy of tax invoice or sale certificate and Insurance of machineries or equipments;
 - (d) copy of Registration Certificate or token tax receipt (applicable for pneumatic tyres mounted machine or equipment registered under Central Motor Vehicle Act, 1989);
 - (e) copy of Firm Registration Certificate (applicable for Companies or Association or Cooperative Societies or Organization).
- (3) Any contractor applying for Class B enlistment shall submit the following documents as under namely:-
- (a) copy of Voter card, PAN card and Indian Citizenship Certificate;
 - (b) copy of tax invoice or sale certificate and Insurance of machineries and equipments;
 - (c) copy of Registration Certificate or token tax receipt (applicable for pneumatic tyres mounted machine or equipment registered under Central Motor Vehicle Act, 1989);
 - (d) copy of Firm or Company Registration Certificate (applicable for Companies or Associations or Cooperative Society or Organization).

Enlistment

6. (1) The Implementing Authority shall issue an enlistment form which shall be made available to the applicant after submission of prescribed enlistment fee duly deposited under the major and minor Revenue Head: 1055-RT, 201-SNT, 04-Other Misc.

- (2) The enlistment shall be subject to payment of the enlistment fee as may be prescribed and subject to the scrutiny of the requisite documents as referred to in sub-section (2) and (3) of section 5.
- (3) The Implementing Authority shall issue an Enlistment Certificate which shall be valid for a period of 01 (one) year subject to renewal after fulfilling all the criteria specified in section 5 or any other criteria as may be prescribed.
- (4) The enlistment shall be open to review by the Implementing Authority and the same shall be liable for suspension, cancellation or any other action required to be taken, if considered necessary by the Implementing Authority, after issue of show cause notice.

Criteria for those machines and equipments already rendering constructional works before the commencement of this Act.

7. (1) The State Government shall levy such enlistment fee from those machines and equipments which are already rendering constructional works from such day as it may deem fit and proper as may be prescribed.
- (2) Those machines and equipments which are currently rendering constructional works for any constructional and project developmental sites of the State shall fulfill all the criteria for enlistment laid down under this Act, within a prescribed time limit as notified by the Government.

Machine Identification Number

8. The Implementing Authority shall issue a unique Machine Identification Number to all the enlisted machineries and equipments, which shall be displayed and embossed in the body of the machine or equipment for the purpose of identification.

Deployment of machinery and equipment

9. (1) Right to deployment of the enlisted machineries and equipments shall be in the sole discretion of the Implementing Authority.
- (2) The Implementing Authority, based on the receipt of the requirement from the Service Receiver shall deploy the machinery for onward operation on and as and when required basis.
- (3) A Deed of Agreement shall be drawn between the implementing authority and the contractor or the service receiver, prior to awarding any work subject to payment of supervision charge as may be prescribed by the Implementing Authority through the respective Service Receiver or Contractor.

Terms of Payment

10. (1) The Implementing Authority may upon deployment of any enlisted machinery and equipment for operation directly receive the work payment from the service receiver and subsequent to that the reimbursement of the payment may be done to the enlisted contractor after deduction of supervision charges as prescribed.

- (2) The payment of supervision charge, for all works shall be made within 15 (fifteen) days from the date of work payment released by the service receiver to the contractor.
- (3) Notwithstanding anything contained in sub-section (1), the Service Receiver to whom the enlisted machinery has been deployed, may exercise the right to deduct the supervision charge at source during the course of releasing the work bills of their respective engaged contractor and forward the same to the Implementing Authority.
- (4) If the Service Receiver on behalf of the contractor make the payment of the levied Supervision charge for any contractual work, the respective engaged contractor shall not be liable to pay supervision charge additionally. Similarly, if the respective contractor pays the levied supervision charge then the service receiver shall not be liable to pay additionally.

Penalty

11. (1) In the event a contractor fails to enlist the equipment and machinery within the stipulated time, a penalty equivalent to Rs. 500 /- (Rupees five hundred) for every single working day of the delay shall be imposed, or of such amount, as may be notified by the State Government, from time to time, in the Official Gazette.
- (2) In case, the service receiver or contractor fails to deposit the supervision charge under sub-section (3) of section 10, within the prescribed time, a penalty of Rs. 500/- (Rupees Five hundred) for every single working day of the delay shall be imposed or of such amount, as may be notified by the State Government, from time to time in the Official Gazette.
- (3) In case, the enlisted contractor fails to renew their enlistment on or before the date of expiry, then a penalty of Rs.100/- (Rupees One hundred) for every single working day of the delay shall be imposed or of such amount, as may be notified by the State Government, from time to time in the Official Gazette.
- (4) The defaulting service receiver or contractor who fails to pay the prescribed supervision charge to the Implementing Authority shall be dealt with under the provisions of the Sikkim Public Demands Recovery Act, 2006.

Exemption

12. The machinery or equipment which are engaged by any individual for the construction of any private business unit, place of worship or any residential property without engaging any contractor shall be exempted from the provisions of this Act.

Power to make rules

13. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
- (2) Every rule made under this Act, shall be laid, as soon as may be, after it is made, before the State Legislature.

**Power to
remove
difficulties**

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the commencement of this Act.

- (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

**SURAJ CHETTRI (SSJS)
L.R.-cum-SECRETARY
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT**

